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Via ECF

March 25, 2024

Hon. Robyn F. Tarnofsky  
United States Magistrate Judge  
United States District Court for the Southern  
District of New York  
500 Pearl Street, Room 703  
New York, NY 10007

Re: Red Apple Media, Inc. v. Batchelor, et al., Case No. 23 Civ. 10253 (JSR) (RFT)

Dear Judge Tarnofsky:

We represent Defendant Audioboom Ltd. in this action. We write jointly with counsel for Plaintiff Red Apple Media, Inc. and counsel for Defendants John Batchelor, Union River Press, Inc. and The Weiss Agency,<sup>1</sup> to request that the settlement conference currently scheduled for April 29, 2024 (Dkt. 29) be rescheduled to April 10 or, if that date is not available, to sometime during the time period April 22-25.

The deadline to complete discovery in this case was recently extended to May 6, 2024 (Dkt. 31), and the Court has indicated that no further extensions will be granted. Although the parties have conducted the deposition of a non-party witness, and they are committed to completing written discovery prior to the settlement conference, the parties anticipate the need to take at least four party depositions. In order to have a chance of avoiding the substantial cost and expenditure of time associated with preparing for and participating in those party depositions, the settlement conference will need to be held sufficiently in advance of the May 6 discovery deadline to allow those depositions to be taken after the settlement conference, should settlement not prove successful. That will not be possible if the settlement conference is held on April 29, given the May 6, 2024 discovery cutoff.

The parties therefore jointly request that the settlement conference be rescheduled to April 10, or, if that date is not available, to April 22-25. The parties also respectfully ask that the settlement conference begin at 10:00am, as several rounds of discussions may be required to reach a settlement, given the number of parties and issues involved in the case.

We thank the Court in advance for its time and effort in attempting to amicably resolve this matter.

Respectfully yours,

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<sup>1</sup> We have been unable to reach counsel for Defendant Nicholas G. Malone to discuss this request, despite repeated attempts to contact him by phone and email over the course of several days.



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Tal Dickstein  
Partner

cc: All Counsel of Record (via ECF)

The parties' request to reschedule the April 29 settlement conference is GRANTED.

The settlement conference is now scheduled for **April 24, 2024 at 10 AM** in Courtroom 9B at 500 Pearl Street, New York, NY 10007. Ex-parte Settlement Conference Summaries due April 17, 2024 by 5 PM.

Corporate parties must send the person with decision-making authority to settle the matter to the conference.

Date: March 25, 2024  
New York, NY

SO ORDERED

A handwritten signature in black ink, appearing to read 'Robyn F. Tarnofsky'.

ROBYN F. TARNOFSKY  
UNITED STATES MAGISTRATE JUDGE